

REGULATORY IMPACT STATEMENT UPDATE

September 30, 2010

KAR 28-19-202, 28-19-517, 28-19-720, 28-19-735, 28-19-750, 28-19-750a
Amended Permanent Air Quality Regulations

KAR 28-19-728, 28-19-728a, 28-19-728b, 28-19-728c, 28-19-728d, 28-19-728e, 28-19-728f
Revoked Air Quality Regulations

The notice of hearing and public comment period of at least 60 days regarding the above-referenced amended regulations and revoked regulations was published in the *Kansas Register* on June 17, 2010. The notice is included in the official record of the proceedings as Attachment 1 to the Report of the Hearing Officer. During the public comment period preceding the hearing, KDHE received two written comments, which included one comment letter and one electronic mail comment, from individuals from the public submitted on behalf of their respective companies. The agency also received a comment letter from Raney L. Gilliland, Kansas Legislative Research Department, on behalf of the Joint Committee on Administrative Rules and Regulations. The public comment period was kept open until 5:00 p.m. on the hearing day for receipt of written public comment.

The public hearing was conducted at 10:00 a.m., Monday, August 30, 2010, at the Kansas Department of Health and Environment, Curtis State Office Bldg., Rm. 530, Topeka. In addition to the hearing officer, eight persons attended the hearing, including four persons from the public, from or representing industry and government with an interest in the proposed regulations, and four KDHE staff persons. The sign-in sheet listing persons attending the hearing is included in the report of the hearing officer as Attachment 2. At the hearing, one individual from the public presented oral comment in support of proposed amended KAR 28-19-202 that increased emission fees for class I sources and provided a written copy of the comment. No other written or oral comment regarding the regulations was presented or received at the hearing and no additional public comment was received during the comment period.

Pursuant to KSA 77-416, the agency provided copies of the proposed regulations and regulatory impact statement to the League of Kansas Municipalities, Kansas Association of Counties and Kansas Association of School Boards for their review and requesting information or comment that the agency should consider regarding the impact of the proposed regulations. No comment was received from any of these organizations.

All public comment was fully reviewed and considered. After careful consideration, the agency determined that no changes in the proposed regulations were needed to address public comment or to update any statutory citations in the regulation histories. KDHE prepared a responsiveness summary that lists each comment received and provides a detailed explanation of the agency's response and action to address each comment. The hearing officer entered both the public comment and the responsiveness summary into the

official record of the proceedings and these documents were attached to and made a part of the report of the hearing officer as Attachment 5 and Attachment 6, respectively.

Based on the administrative record, the hearing officer found that the agency met the requirements of KSA 2009 Supp. 77-415, *et seq.* for adopting and filing regulations and determined that the Secretary of KDHE has authority pursuant to KSA 65-3005(a)(1) and KSA 65-3024 to promulgate the above-listed administrative regulations. These regulations have been adopted by the Secretary of KDHE and filed with the Secretary of State for final publication in the *Kansas Register*.